

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noa Street-Sachs	Team: Squad #8	CCRB Case #: 202004488	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/10/2019 11:00 PM, Thursday, 06/04/2020 10:00 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 88	18 Mo. SOL 5/10/2021	EO SOL 12/25/2021	
Date/Time CV Reported Thu, 06/04/2020 10:47 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/22/2020 11:37 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Mark Indiviglio	16047	957697	PSA 3
2. an officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Szymon Torba	20490	965568	PSA 3
2. SGT Martin Gimenez	04421	933804	PSA 3
3. POM Jimmy Guerrero	18426	958660	PSA 3
4. POM James Guerra	18879	958659	PSA 3
5. POM Laurindo Marsh	15840	937031	PSA 3
6. POM Jeffrey Chan	19102	958394	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A. an officer	Discourtesy: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B. an officer	Force: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)	§ 87(2)(b)
C. an officer	Abuse: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
D. POM Mark Indiviglio	Abuse: On June 4, 2020, at § 87(2)(b) in Brooklyn, Police Officer Mark Indiviglio refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
E. POM Mark Indiviglio	Abuse: On June 4, 2020, at § 87(2)(b) in Brooklyn, Police Officer Mark Indiviglio interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)

### Case Summary

On June 22, 2020, the CCRB received the below complaint from IAB via original log number 20-14344.

On November 10, 2020, at approximately 11 p.m., in the vicinity of § 87(2)(b) in Brooklyn, § 87(2)(b) called 911 on his girlfriend. Officers responded and spoke to § 87(2)(b)'s girlfriend after which § 87(2)(b) came into the hallway to interact with the officers. An officer allegedly said, "Get the fuck against the wall" and bumped into § 87(2)(b) with his chest. This officer allegedly said he would "fuck § 87(2)(b) up". (**Allegation A, B, and C: Discourtesy, Force, Abuse of Authority, § 87(2)(g)**).

On June 4, 2020, at approximately 10 p.m., in the vicinity of § 87(2)(b) in Brooklyn, § 87(2)(b) saw an officer he recognized from the previous incident who the investigation determined to be PO Mark Indiviglio of PSA 3. § 87(2)(b) asked PO Indiviglio for his name and shield number. PO Indiviglio said his name very quickly and flashed his shield at § 87(2)(b) which § 87(2)(b) could not see since it was nighttime. § 87(2)(b) said "Alright, well you see I'm a little intoxicated, so you know, let me record it so I could have it" (**Allegation D: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was trying to get his phone out to record and as he was doing so, PO Indiviglio told him not to grab for his phone (**Allegation E: Abuse of Authority, § 87(2)(g)**).

There were no arrests made and no summonses issued as a result of either of these incidents. The agency is in possession of body-worn camera footage of both incidents (Board Review 01, Board Review 02).

### Findings and Recommendations

**Allegation (A) Discourtesy: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer spoke discourteously to § 87(2)(b)**

**Allegation (B) Force: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)**

**Allegation (C) Abuse of Authority: On November 10, 2019, at § 87(2)(b) in Brooklyn, an officer threatened § 87(2)(b) with the use of force.**

In his sworn statement, § 87(2)(b) stated that on a date the investigation determined to be November 10, 2020, at approximately 11 p.m., in the vicinity of § 87(2)(b) § 87(2)(b) in Brooklyn, § 87(2)(b) called 911 because his girlfriend was being violent. Officers responded and spoke to § 87(2)(b)'s girlfriend after which § 87(2)(b) came into the hallway to interact with the officers. An officer said, "Get the fuck against the wall" and bumped into § 87(2)(b) with his chest. This officer threatened § 87(2)(b) saying he would "fuck § 87(2)(b) up" and to "Swing, swing." He also said, "I'll fuck you up. Hit me, Hit me." § 87(2)(b) backed up as a result. § 87(2)(b) was not given any instructions by the officer who made these comments, but the officer had asked for § 87(2)(b)'s ID. § 87(2)(b) said, "I'm the victim here. My ID is right in my house. This is my house" (Board Review 03).

§ 87(2)(g) On December 19, 2019, § 87(2)(b) provided a phone statement during which was generally consistent with his later one except that § 87(2)(b) also stated that when he said he would

retrieve his ID, an officer “pinned § 87(2)(b) up to the wall with his chest” and told him he’d “fuck [him] up.” § 87(2)(b) said, “What’re you gonna fuck me up for?” and the officer said, “I’ll fuck you up. You think you’re tough.” The officers then left and got into their cars after which an officer got out and pushed § 87(2)(b). This officer told § 87(2)(b) he would “fuck [him] up” and said “Swing, motherfucker” (Board Review 04).

PO Indiviglio testified that he and PO Marsh responded to a family dispute. PO Indiviglio went up to the floor and § 87(2)(b) was standing in the hallway. § 87(2)(b) was saying that his girlfriend or wife was harassing him and that he called the police because he wanted this to stop, but he had resolved it and did not need the police anymore. § 87(2)(b) was drinking a beer and was intoxicated when the officers arrived. § 87(2)(b) started talking to the other two officers who had arrived first. After they spoke for a while, one of these officers asked § 87(2)(b) if he had ID. § 87(2)(b) said he did and started walking back to his apartment. § 87(2)(b) got “a little upset,” and said, “Why do I have to give you ID? I called you all.” § 87(2)(b) got to his apartment, opened his door, pointed to PO Marsh, and said, “You can come in. The rest of you have to wait out in the hall.” PO Indiviglio said, “It doesn’t work like that.” § 87(2)(b) said, “You know what? All you motherfuckers can wait in the hall. I’ll show you how it’s gonna work” after which § 87(2)(b) slammed the door and the officers left the building.

PO Indiviglio denied ever using profanity with § 87(2)(b) or hearing any other officer do so. PO Indiviglio was informed that it was alleged that an officer said, “Get the fuck against the wall” to § 87(2)(b). PO Indiviglio denied saying this or hearing any other officer say this. PO Indiviglio denied making physical contact or threatening § 87(2)(b) with force and denied witnessing any other officer do so (Board Review 05).

The investigation obtained body-worn camera footage from PO Indiviglio and PO Marsh capturing this incident. PO Indiviglio’s body-camera footage (Board Review 01) begins with PO Indiviglio walking up the steps of the apartment complex after which it captures his interaction with § 87(2)(b) and then PO Indiviglio following three officers into the stairwell and beginning to walk down the steps. None of the allegations are captured in this footage. PO Marsh’s body-worn camera footage (Board Review 01) begins with him entering the apartment complex after which it captures him interacting with § 87(2)(b) and then leaving and walking toward the door of the stairwell. His footage also does not capture the allegations listed above.

§ 87(2)(g)

**Allegation (D) Abuse of Authority: On June 4, 2020, at § 87(2)(b) in Brooklyn, Police Officer Mark Indiviglio refused to provide his shield number to § 87(2)(b).**  
**Allegation (E) Abuse of Authority: On June 4, 2020, at § 87(2)(b) in Brooklyn, Police Officer Mark Indiviglio interfered with § 87(2)(b)’s use of a recording device.**

In his sworn statement, § 87(2)(b) stated that on June 4, 2020, at approximately 10 p.m., in the vicinity of § 87(2)(b) in Brooklyn, § 87(2)(b) was walking with his girlfriend, § 87(2)(b) when he saw PO Indiviglio. § 87(2)(b) seemed to correct § 87(2)(b) while he was on the phone after which he stated that the officers drove up, stopped, exited their vehicle, and then approached unidentified individuals who were near § 87(2)(b) and § 87(2)(b) and started pouring peoples’ cups out. The officers did this to people who were around § 87(2)(b) but not to him as § 87(2)(b) was not holding a cup or bottle.

§ 87(2)(b) who was a little intoxicated, asked PO Indiviglio, “What’s your name and your badge number? Because I’m investigating, and I called Internal Affairs on you.” PO Indiviglio told § 87(2)(b) to back up which § 87(2)(b) did. PO Indiviglio said his name “really quickly”, which § 87(2)(b) did not catch and did not remember. PO Indiviglio also flashed his shield at § 87(2)(b) and § 87(2)(b) said, “Alright, well you see I’m a little intoxicated, so you know, let me record it so I could have it.” § 87(2)(b) could not see PO Indiviglio’s shield number when he did this as it was nighttime.

§ 87(2)(b) was trying to get his phone out to record and as he was doing so, PO Indiviglio told him not to grab for his phone. PO Indiviglio said, “Don’t pull out your phone, because I’m going to feel threatened.” § 87(2)(b) said later that PO Indiviglio said, “Don’t grab [your] phone or record, or something will happen to [you].” PO Indiviglio had his hand on his hip and told § 87(2)(b) to “Back up” which § 87(2)(b) did (Board Review 03).

During § 87(2)(b)’s sworn statement, she stated that on June 4, 2020, at approximately 10:35 p.m., in the vicinity of § 87(2)(b) in Brooklyn, officers entered the building and when they came back out, they saw the bottles in front of where § 87(2)(b) and § 87(2)(b) were standing which they proceeded to pour out. PO Indiviglio poured a bottle out right in front of § 87(2)(b) and § 87(2)(b) told him he had an investigation with him and asked for his shield number and his name. § 87(2)(b) said, “Babe, back up, because he’s not going to give it to you.” At first, PO Indiviglio did not want to provide this information. § 87(2)(b) asked approximately three times. PO Indiviglio did not provide his information after the first time. After the second time, PO Indiviglio said his name, but § 87(2)(b) and § 87(2)(b) did not catch it. PO Indiviglio did not say his shield number. § 87(2)(b) told § 87(2)(b) to back up again. § 87(2)(b) and § 87(2)(b) tried to see what PO Indiviglio’s name was on his uniform and PO Indiviglio told § 87(2)(b) and § 87(2)(b) to back up with his hand on his hip after which he entered the police vehicle and drove off (Board Review 03).

PO Indiviglio testified that on June 4, 2020, at approximately 10:23 p.m., in the vicinity of § 87(2)(b) in Brooklyn, PO Indiviglio, Sgt. Gimenez, and two other officers who PO Indiviglio could not recall, responded to the location where a physical fight was transpiring on the fourth floor, which was unrelated to § 87(2)(b) and for which § 87(2)(b) was not present. They went up to the floor and handled the job after which they left the building together and by the police vehicle that Sgt. Gimenez had picked them up in, there was an open bottle of vodka which PO Indiviglio poured out. At the time, there was one light by the building but it was a little dark out. There was a group of people sitting by a bench in front of the building who were not near the bottle of vodka. PO Indiviglio did not know if § 87(2)(b) was in this group of people.

As PO Indiviglio was pouring out the bottle, § 87(2)(b) came running up to PO Indiviglio. § 87(2)(b) was highly intoxicated and yelling, “I got IAB lawsuits against you. What’s your shield number?” from approximately one foot away from PO Indiviglio. PO Indiviglio told § 87(2)(b) his shield number while § 87(2)(b) still stood approximately one foot away from him. § 87(2)(b) did not say anything to indicate that he had not heard PO Indiviglio’s shield number, seen it, or had not been able to record it. Besides providing his shield number verbally when § 87(2)(b) initially asked, there was no other way that PO Indiviglio provided this information to § 87(2)(b). § 87(2)(b) continued to yell after which PO Indiviglio turned on his body camera. § 87(2)(b) kept asking, “What’s your shield?” and PO Indiviglio said, “I already told you my shield. Have a nice night” after which PO Indiviglio got into the police car and drove away.

When asked if there was a reason why PO Indiviglio did not provide his shield number again when § 87(2)(b) requested it, PO Indiviglio said he did not know for sure, but believed he provided his

shield number more than once. PO Indiviglio reiterated that § 87(2)(b) was highly intoxicated and kept saying repeatedly, “What’s your shield? What’s your shield, What’s your shield?” PO Indiviglio did not recall how many times total § 87(2)(b) asked for PO Indiviglio’s shield number but PO Indiviglio knew it was multiple times. PO Indiviglio said his shield number once and might have said it twice. PO Indiviglio was informed that it was alleged that after § 87(2)(b) asked for PO Indiviglio’s name and shield number, § 87(2)(b) requested to record PO Indiviglio’s shield number and said he had not caught it. PO Indiviglio said that § 87(2)(b) was holding a cell phone, but PO Indiviglio did not recall § 87(2)(b) ever asking to record it or wanting to record it.

PO Indiviglio denied telling § 87(2)(b) not to reach for his phone or interfering with § 87(2)(b) holding his cell phone. There was no reason that § 87(2)(b) could not record at this time.

PO Indiviglio was played his body camera footage (Board Review 02) from 13 seconds to 50 seconds and his attention was directed to discussion of PO Indiviglio’s shield number. After playing the footage, the undersigned directed PO Indiviglio’s attention to § 87(2)(b) saying “Wait, I just need to –” immediately before the camera shut off. PO Indiviglio denied that this refreshed his recollection of § 87(2)(b) indicating he did not capture PO Indiviglio’s shield number upon first hearing it. When asked about PO Indiviglio’s training and experience regarding if a civilian asked multiple times for a shield number, PO Indiviglio said as far as he knew, he was required to provide it once (Board Review 05).

PO Torba testified that on June 4, 2020, at approximately 10:23 p.m., in the vicinity of § 87(2)(b) in Brooklyn, PO Torba and PO Indiviglio responded to a 911 call. On their way into the building, PO Torba observed a group of people sitting outside the housing complex. The lighting conditions were “pretty dark” as it was nighttime and there was scaffolding everywhere.

PO Torba left the building with PO Indiviglio and their supervisor, Sgt. Gimenez. The group of approximately six to eight people who were all drunk who were still present outside the building. They all had cups with them and there was a bottle of liquor by the fence. PO Indiviglio asked if it belonged to anyone and then dumped it out. PO Torba did not know what happened, but PO Indiviglio was speaking to somebody the investigation determined to be § 87(2)(b) PO Torba had no idea what was said between PO Indiviglio and § 87(2)(b)

§ 87(2)(b) approached PO Indiviglio and they began conversing. PO Torba did not know what they were saying or doing but § 87(2)(b)’s tone or demeanor was “upset” and “angry” as he had just run up to PO Indiviglio. At one point, an individual who PO Torba believed was § 87(2)(b) pulled out his cell phone and began recording the officers. To PO Torba’s knowledge, nobody told § 87(2)(b) to stop and § 87(2)(b) proceeded. One of § 87(2)(b)’s friends took § 87(2)(b) to the side and PO Torba believed PO Indiviglio said, “Have a good night” after which they left.

PO Torba denied witnessing PO Indiviglio refuse § 87(2)(b)’s request for a shield number in any way. PO Torba did not know if § 87(2)(b) ever requested PO Indiviglio’s shield number nor did he know if PO Indiviglio ever provided his shield number to § 87(2)(b) did not do anything to indicate that he could not see, record, or capture PO Indiviglio’s shield number. § 87(2)(b) had his cell phone out in front of him during the entirety of the encounter but PO Torba did not recall § 87(2)(b) saying that his phone was not picking something up. PO Torba was not sure if he was on the phone with someone or recording. PO Torba denied witnessing PO Indiviglio interfere with § 87(2)(b)’s recording in any way.

PO Torba was played PO Indiviglio’s body-camera from 14 to 50 seconds (Board Review 02) and his attention was directed to discussion of shield numbers in the footage, specifically § 87(2)(b)’s

request for PO Indiviglio's shield number in the footage and right before the camera turns off, § 87(2)(b) saying, "Wait I just need to --." This footage did not aide in PO Torba's recollection of § 87(2)(b) requesting PO Indiviglio's shield number or PO Indiviglio refusing his request in any way (Board Review 06).

Sgt. Gimenez denied witnessing the entire incident and the body-camera footage did not refresh his recollection of it (Board Review 07).

PO Indiviglio's body-worn camera footage (Board Review 02) captures that at 20 seconds, § 87(2)(b) holds his phone, turns, and speaks to a group of people. § 87(2)(b) walks slightly toward PO Indiviglio and at 30 seconds, when audio is first captured, the following statements can be heard but it is unclear who says them: "They want that. Leave them alone." At 33 seconds, PO Indiviglio pours a bottle of liquor he is holding onto the ground and throws it into the grass. At 43 seconds, as PO Indiviglio walks towards a marked police car, § 87(2)(b) says to him, "I could bottle another bottle, but can I see your badge numbers?" PO Indiviglio says, "Have a good night. I already told you my badge number" while by the rear of a marked police vehicle. § 87(2)(b) says, "Wait I just need to --" after which the camera shuts off.

Per Patrol Guide Procedure 203-09, officers are required to courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests them to do so (Board Review 08).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
- PO Indiviglio has been a member of service for six years and this is the first CCRB case in which he has been a subject (Board Review 10).

### **Mediation, Civil and Criminal Histories**

**CCRB Case # 202004488**

- § 87(2)(b) declined to mediate this complaint (Board Review 03).
- According to the New York City Office of the Comptroller, § 87(2)(b) had not filed a Notice of Claim regarding this incident as of August 10, 2020 (Board Review 11).

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad No.: 8

Investigator: Noa Street-Sachs Inv. Street-Sachs 07/19/2021  
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo     
Signature Print Title & Name Date

Reviewer:     
Signature Print Title & Name Date